

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

JAMES C. KISTNER

Plaintiff,

vs.

CITY OF BUFFALO, *et al.*

Defendants.

SUPPORTING DECLARATION

Case No. 18-cv-402

MAEVE E. HUGGINS, declares under penalty of perjury and pursuant to 28 U.S.C. §1746 that the following is true and correct:

1. I am an attorney at law admitted to practice before this Court and am an Assistant Corporation Counsel for the City of Buffalo, *of Counsel* to Timothy A. Ball, Esq., Corporation Counsel, attorney for Defendants, City of Buffalo (hereinafter "City"), Byron Lockwood (sued incorrectly here as "BRYON LOCKWOOD"; hereinafter "Lockwood"), Daniel Derenda (hereinafter "Derenda"), Lauren McDermott (hereinafter "McDermott"), Jenny Velez (hereinafter "Velez"), Karl Schultz (hereinafter "Schultz"), Kyle Moriarity (sued incorrectly here as "KYLE MORIARTY"; hereinafter "Moriarity"), David T. Santana (hereinafter "Santana"), Anthony McHugh (hereinafter "McHugh"), and John Doe(s) in the above-entitled action. In such capacity, I am fully familiar with the facts and circumstances of this litigation.

2. I offer this declaration in support of the Defendants' motion to dismiss Plaintiff's "Second Amended Verified Complaint and Jury Demand," for judgment on

the pleadings pursuant to Fed. R. Civ. P. 12(c) and for summary judgment pursuant to Fed. R. Civ. P. 56.

3. Copies of the following documents are attached hereto as Exhibits to the Defendants' L. R. Civ. P. 56 Statement of Undisputed Material Facts in support of this motion and made a part hereof:

Ex. A: Plaintiff's Notice of Claim;

Ex. B: Buffalo Police Department Complaint Summary Reports;

Ex. C: Buffalo Police Department arrest documents, accusatory instruments, appearance ticket, and Request for Examination of a Person under Section 9.41 of the NYS Mental Hygiene Law ;

Ex. D: Transcript of Plaintiff's examination under oath pursuant to General Municipal Law §50-h;

Ex. E: Transcript of Plaintiff's deposition testimony;

Ex. F: Plaintiff's medical records;

Ex. G: Transcript of Lauren McDermott's deposition testimony;

Ex. H: Transcript of Jenny Velez's deposition testimony;

Ex. I: Transcript of Karl Schultz's deposition testimony;

Ex. J: Transcript of Kyle Moriarity's deposition testimony;

Ex. K: Transcript of Anthony McHugh's deposition testimony;

Ex. L: Transcript of Joseph Slomba's deposition testimony;

Ex. M: Officer Training Records; and

Ex. N: Transcript of David T. Santana's deposition testimony.

4. All documentary evidence and testimony supports the undisputed facts that these Defendants are entitled to judgment on the pleadings and summary judgment because Plaintiff failed to plead properly certain causes of action, the remaining causes of action proffered against them have no merit, and there are no contested facts sufficient to require a trial of these claims against them.

5. That based on the facts set out in the accompanying Statement of Undisputed Material Facts, and the argument set forth in the accompanying Memorandum of Law, the Defendants pray for an order granting their motion to dismiss Plaintiff's complaint, for judgment on the pleadings, and for summary judgment.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on April 30, 2021
Buffalo, New York

Timothy A. Ball, Esq.
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Attorney for Defendants

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